



U.S. Department of Justice

*United States Attorney
Southern District of New York*

86 Chambers Street, 3rd Floor
New York, New York 10007

November 5, 2007

BY FEDERAL EXPRESS

The Honorable Charles L. Brieant
United States District Judge
United States Courthouse
300 Quarropas Avenue, Room 275
White Plains, New York 10601

Re: *Duncan v. Sound Shore Medical Center*, 07 Civ. 3094 (CLB) (MDF)

Dear Judge Brieant:

I write respectfully to request an extension of the discovery schedule in the above-referenced medical malpractice case. The Government requests that its deadline for deposing plaintiff Oriana Duncan be extended from November 12, 2007 to December 21, 2007, and that the remaining discovery deadlines be similarly extended. Counsel for plaintiffs and counsel for co-defendant Sound Shore Medical Center ("Sound Shore") have consented to this request.

The Government has thus far been unable to obtain complete responses to its written discovery requests from the other parties. In this case, plaintiffs Oriana Duncan and her infant daughter, Enasha Murphy, claim they were injured by the treatment they received at Sound Shore by doctors employed by the United States. The Government propounded discovery requests to plaintiffs, as well as co-defendant Sound Shore, on August 1, 2007. Among other things, the Government requested the identification of entities that provided medical care to the plaintiffs, as well as authorizations for the release of medical information. The Government received a limited number of authorizations from plaintiffs on October 23, 2007, and issued subpoenas based on those authorizations on October 29, 2007. However, plaintiffs have still not responded to the Government's request for authorizations for release of medical information for all medical providers that treated plaintiff Oriana Duncan within the last ten years. Plaintiffs' responses to the Government written discovery requests are deficient in other respects as well, which the Government has identified to plaintiffs in writing.

In addition, the Government has received no response to the discovery requests it propounded to co-defendant Sound Shore on August 1, 2007. Among other things, the Government requested the production of all medical records of either plaintiff in the possession of Sound Shore. Moreover, co-defendant Sound Shore did not file an answer to the complaint until October 30, 2007 – more than six months after the complaint was filed.

*Implication started from
Conference adjourned
Jan 18, 2008 to December 21, 2008
J. A. W. ordered
November 7, 2007
USOJ*

In the absence of complete responses to its written discovery requests, the Government will be unable to adequately prepare for the deposition of plaintiff Oriana Duncan. The Government hopes that the requested extension will permit the other parties to respond to the Government's discovery requests without the need for further intervention by the Court.

In addition to extending the Government's time to depose plaintiff Oriana Duncan until December 21, 2007, the Government requests that the Court extend the following deadlines:

1. Last day to depose experts – from January 10, 2008 to February 10, 2008;
2. Last day for a second round of interrogatories, including expert interrogatories – from October 31, 2007 to January 15, 2008;
3. Last day for requests for admission – from November 1, 2007 to January 15, 2008; and
4. Last day for all discovery – from January 18, 2008 to February 18, 2008.

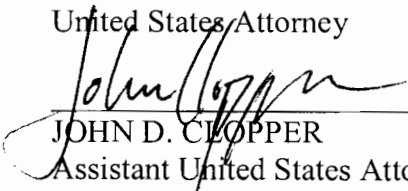
The Government respectfully submits that adjustment of these deadlines is appropriate in light of the Government's need to obtain further written discovery, particularly medical history information, before proceeding with expert discovery.

Thank you for your consideration of this request.

Respectfully,

MICHAEL J. GARCIA
United States Attorney

By:


JOHN D. CLOPPER
Assistant United States Attorney
Telephone: (212) 637-2716
Facsimile: (212) 637-0033

cc: BY FEDERAL EXPRESS
Michael Ronemus
Ronemus & Vilensky
112 Madison Avenue
New York, NY 10016

Attorney for plaintiffs Oriana Duncan and Enasha Murphy

Paul Colucci
Kaufman, Borgeest & Ryan
200 Summit Lake Drive
Valhalla, NY 10595
pcolucci@kbrlaw.com

Attorney for defendant Sound Shore Medical Center